

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Brian L. Patterson	§ Confirmation No.:	4878
Serial No.:	10/767,356	§ Group Art Unit:	3629
Filed:	01/28/2004	§ Examiner:	Shaun D. Sensenig
For:	Transaction-based storage operations	§ Atty. Dkt. No.:	200208247-1 (HPC.0867US)

Mail Stop Appeal Brief-Patents

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

Sir:

The following sets forth Appellant's Reply to the Examiner's Answer dated April 3, 2009.

A. REPLY TO EXAMINER'S ANSWER REGARDING CLAIMS 1 AND 35

The method of claim 1 is directed to various tasks performed at a processor, where such tasks at the processor includes receiving a service request from a user; determining an amount of credit available on a local media for the user; implementing the service request at the processor when the amount of credit is sufficient to execute the service request; and when the amount of credit is insufficient to execute the service request, generating, in response to the receive request, a token request for a service token, and transmitting the token request to a server communicatively connected to a storage network.

In the rejection, the Examiner relied primarily on ¶¶ [0049], [0053], [0086], and [0106] of Tohyama as purportedly disclosing the above-listed tasks performed at the processor in claim

1. Paragraphs [0049], [0053], and [0106] refer to tasks that are performed at a license management server machine 3 shown in Fig. 1 of Tohyama.

However, the Examiner also cited ¶ [0086] of Tohyama as disclosing “implementing the service request at the processor when the amount of credit is sufficient to execute the service request.” This passage of Tohyama refers to tasks performed by a licensed controller 4a in a **user terminal** 4, as shown in Fig. 1 of Tohyama. The user terminal 4 is separate from the license management server machine 3 of Tohyama—in fact, as shown in Fig. 1 of Tohyama, the user terminal 4 is separated from the license management server machine 3 by an Internet network 5.. Thus, the Examiner has alleged that different tasks performed by the user terminal 4 and the license management server machine 3 correspond to tasks performed **at a processor** in claim 1. Such a mapping of the teachings of Tohyama to the elements of claim 1 is improper. Based on the reading of Tohyama in the final rejection, it is clear that Tohyama does not disclose the various tasks recited in claim 1 being performed **at a processor**, since the tasks identified by the Examiner are different tasks performed by the license management server machine 3 and the user terminal 4 of Tohyama.

For the foregoing reason and for reasons stated in the Appeal Brief, it is respectfully submitted that the § 102 rejection of claims 1 and 35 is in error.

B. REPLY TO EXAMINER'S ANSWER REGARDING CLAIMS 3 AND 37

Dependent claim 3 further recites that the service request comprises a request for at least one of a data mirroring service, a remote copy service, a back-up service, a recovery service, or an LUN extension service. The Examiner continued to cite ¶ [0009], lines 9-20 of Tohyama as purportedly disclosing this feature of claim 3. However, ¶ [0009] of Tohyama merely refers to a

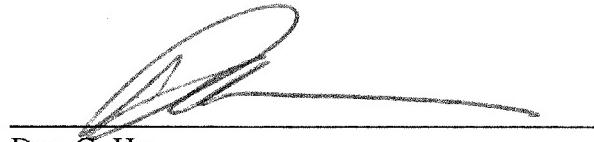
software licensing system that includes a licensing terminal for storing a license menu, and a user terminal capable of accessing the license menu. Nowhere in this passage of Tohyama is there any hint of any of the services recited in claim 3.

Therefore, claim 3 is clearly allowable for the further additional reason stated above. Dependent claim 37 is also further allowable for the foregoing reason.

C. CONCLUSION

In view of the foregoing, and in view of the arguments presented in the Appeal Brief, reversal of the final rejection is respectfully requested.

Respectfully submitted,



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